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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92063790
Party	Plaintiff Home Tech Innovation, Inc.
Correspondence Address	SHANE RUMBAUGH COOLEY LLP 1299 PENNSYLVANIA AVENUE NW SUITE 700 WASHINGTON, DC 20004 UNITED STATES srumbaugh@cooley.com, trademarks@cooley.com, vbadolato@cooley.com, pwillsey@cooley.com, Avijay6@gmail.com, bhardwajsa@cs.com
Submission	Motion to Compel Discovery
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Signature	/Shane Rumbaugh/
Date	10/25/2016
Attachments	Home Tech - Motion to Compel.pdf(45217 bytes ) Exhibits A-J.pdf(1281027 bytes ) Home Tech - Declaration of Shane Rumbaugh.pdf(17481 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 4,890,276  
For the Trademark SUVI  
Registered on January 19, 2016

Home Tech Innovation, Inc.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92063790
	)	
IDT Consulting and Services, Inc.,	)	
	)	
Respondent.	)	
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**MOTION TO COMPEL DISCOVERY AND EXTEND DEADLINES**

Pursuant to Federal Rule of Civil Procedure 37 and 37 CFR § 2.120(e)(1), Petitioner Home Tech Innovation, Inc. (“Home Tech”) moves the Board to compel Respondent IDT Consulting and Services, Inc., (“Respondent” or “IDT Consulting”) to produce documents responsive to Home Tech’s Requests for Production of Documents (“RFPs”) Nos. 1 – 26 (collectively, the “Subject RFPs”) and to serve complete responses to Interrogatory Nos. 1 – 14 (collectively, the “Subject Interrogatories”). Home Tech further respectfully requests that the Board suspend the proceeding and reset deadlines by sixty (60) days upon disposition of this motion.

**I. INTRODUCTION**

IDT Consulting’s discovery responses are grossly inadequate and are so facially deficient that they completely undermine the purpose and spirit of the discovery process. After many attempts to discuss and resolve these deficiencies with the Respondent, Home Tech’s only remedy is to pursue this motion to compel. As demonstrated below, Home Tech has been

substantially prejudiced by Respondent's repeated failures to satisfy its discovery obligations and has spent numerous hours trying to obtain adequate discovery responses without requesting the Board's intervention. Home Tech served Respondent with its requests and initial disclosures on the first day of discovery, August 4, 2016. Despite Home Tech's diligent efforts to obtain discovery since that date, Respondent has failed to produce responsive documents or serve complete interrogatory responses.

After five unanswered requests to meet and confer and one lengthy discovery deficiency letter, Home Tech has no reason to believe Respondent will fulfill its discovery obligations absent the Board's intervention and therefore files this motion to compel. Additionally, Home Tech requests that upon disposition of the instant motion, the Board reset deadlines by sixty (60) days to permit sufficient review of any discovery Respondent is compelled to produce.

## **II. PROCEDURAL AND FACTUAL BACKGROUND**

On May 26, 2016, Home Tech filed a petition to cancel Respondent's trademark registration for the SUVI mark (Reg. No. 4,890,276) on the grounds that Respondent has never used the SUVI mark in connection with many of the goods identified in its registration. Respondent filed an Answer on July 4, 2016, which refused to admit or deny whether it has used the SUVI mark in connection with all of the goods identified in its trademark registration. Instead of denying Home Tech's allegations, Respondent provided an entirely unresponsive statement that "on information and belief, Respondent disputes that it has never used the SUVI mark on the design and development of kitchen products."

The parties held the mandatory discovery conference on July 19, 2016. Declaration of Shane Rumbaugh ("Rumbaugh Decl."). Home Tech memorialized the discovery conference in an e-mail communication with Respondent on the same day. Ex. A. IDT Consulting did not respond to Home Tech's correspondence. Rumbaugh Decl. Home Tech followed-up to confirm its summary of the discovery conference was accurate on July 25, 2016, and again, Respondent did not reply. *Id.*

Home Tech served Respondent, via hand-delivery and electronic service, with its first set of RFPs, Interrogatories, and initial disclosures on August 4, 2016, the first day discovery opened. Exs. B-D. Respondent's responses were due on September 4, 2016. In the meantime, Respondent purported to be amenable to settling this dispute, and Home Tech incurred the cost of drafting a settlement agreement that reflected the terms discussed with Respondent's counsel. Rumbaugh Decl. Ex. E. Additionally, Home Tech sent Respondent a courtesy reminder, two days before Respondent's discovery deadline, to serve its responses on time. *Id.*

Counsel for Respondent, Mr. Sanjay Bhardwaj, responded by stating that he no longer represented Respondent in this matter. *Id.* This was the first time Respondent notified Home Tech that it was no longer represented by Mr. Bhardwaj. Rumbaugh Decl. Curiously, on the following day, Mr. Bhardwaj changed his position entirely and replied that he would be serving as counsel for Respondent and handling this matter. Ex. E.

Respondent served its "joint response" via email on September 7, 2016,<sup>1</sup> and Home Tech received its responses in an envelope that was post-marked September 9, 2016. Ex. F. Respondent's responses to Home Tech's first set of RFPs failed to include any responses to RFP Nos. 17-26. *Id.* Home Tech finally received responses to RFP Nos. 17-26 in Respondent's supplemental response on September 19, 2016. Ex. G. Neither of the responses include the production of any documents, and Respondent did not agree, nor has it agreed since, to search for or produce any documents. Exs. F, G.

Home Tech promptly sent Respondent a detailed discovery deficiency letter on September 12, 2016, via email and first-class mail. Rumbaugh Decl. Ex. H. Home Tech attempted to schedule a meet and confer in five separate emails and asked whether an impasse had finally been reached on September 17, 2016. Exs. I, J.

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<sup>1</sup> Respondent aggressively refused to accept electronic service of documents during the parties' July 19, 2016 discovery conference and wanted to maintain the "ordinary" rules for service, as is reflected in Exhibit A. Respondent's certificate of service incorrectly indicates the responses were mailed on September 3, 2016 (which would have made the responses timely).

As outlined in Exhibit H, each of Respondent's discovery responses are grossly inadequate. For example, in Interrogatory No. 9, Home Tech requested Respondent identify any contracts or licenses Respondent entered into regarding the SUVI mark. Respondent replied by stating that "agreements are in the pipe and in the process of being negotiated to finalized." Ex. G.

Similarly, in RFP No. 5, Home Tech sought documents sufficient to show Respondent's first use of the SUVI mark in commerce. Ex. C. Respondent's response was incoherent – it stated, "product suite is vast and evolves as the solar power module is amendable to integration with a number of in home and out of home appliances." Ex. F. As detailed in Exhibit H, all of Respondent's discovery responses are equally deficient. Respondent did not produce any documents, indicate whether responsive documents exist, or state whether documents are being withheld on the basis of privilege.

As of the filing of this motion to compel, Respondent has not agreed to meet and confer and has not supplemented its discovery responses.

### **III. ARGUMENT**

#### **A. Home Tech's Motion to Compel is Timely and Well-Supported.**

Federal Rule of Civil Procedure 37 and Trademark Rule § 2.120(e)(1) permit a party seeking discovery to move for an order compelling responses and documents from a party that has not fulfilled its discovery obligations. The moving party must (1) support its motion with a written statement showing a good faith effort to resolve the issues presented in the motion, (2) include with its motion a copy of any interrogatory or document request which is the subject of the motion as well as any answer or proffer of production or objection made in response, and (3) file its motion prior to the commencement of the first testimony period. 37 C.F.R. § 2.120(e)(1).

**1. Home Tech Has Made a Good Faith Effort to Resolve This Dispute.**

“A motion to compel discovery [must] be supported by a written statement from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion but has been unable to resolve those issues.” *Cadbury UK Ltd. v. Meenaxi Enter., Inc.*, 115 USPQ2d 1404, 1405 (TTAB 2015). Once one party initiates the meet and confer process, the other party is “under an equal obligation to participate in good faith” in such efforts. *Amazon Tech. Inc. v. Wax*, 93 USPQ2d 1702, 1705 (TTAB 2009). “Following such contact, if the party seeking discovery is dissatisfied with the adverse party’s answer, it may file a motion to compel.” *Hot Tamale Mama ... and More, LLC v. SF Investments, Inc.*, 110 USPQ2d 1080, 1081 (TTAB 2014).

As outlined above, Home Tech sent a detailed discovery deficiency letter and made several attempts to convince Respondent to satisfy its discovery obligations. Respondent refuses to meet and confer with Home Tech and has not supplemented its grossly inadequate responses. Home Tech has met its obligation to meet and confer in good faith; Respondent has not returned the courtesy.

**2. Home Tech’s Motion is Accompanied by the Discovery Requests in Dispute and Applicant’s Proffered Responses.**

A motion to compel shall be accompanied by the discovery requests in dispute and any responses or proffers of production thereto. 37 C.F.R. § 2.120 (e)(1); TBMP § 523.02. The RFPs and Interrogatories at issue, as well as Applicant’s written responses thereto, are attached as Exhibits to this motion.

**3. Home Tech's Motion is Timely Filed.**

A party seeking an order compelling discovery must file its motion to compel prior to the commencement of the first testimony period. 37 C.F.R. § 2.120(e)(1). The first testimony period in this proceeding commences on January 31, 2017. Home Tech's motion is therefore timely filed.

**B. The Board Should Issue an Order Compelling Applicant to Search for and Produce Documents Responsive to the Subject RFPs and Serve Complete Responses to the Subject Interrogatories.**

The Board should order Respondent to conduct appropriate searches and produce documents responsive to each of Home Tech's RFPs and serve complete responses to each of the Subject Interrogatories, all without objections on the merits because: (1) Home Tech's discovery requests concern legitimate and necessary matters for discovery; and (2) Respondent has not produced any documents or served complete interrogatory responses.

**1. Home Tech's RFPs and Interrogatories Concern Legitimate and Necessary Matters for Discovery.**

"Each party has a duty to make a good faith effort to satisfy the reasonable and appropriate needs of its adversary." *Panda Travel Inc. v. Resort Option Enterprises, Inc.* 94 USPQ2d 1789, 1791 (TTAB 2009). Moreover, "[a] party which fails to respond to interrogatories or document requests during the time allowed for, and which is unable to show excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits." TBMP § 403.03; see also *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448, 449 (TTAB 1979).

Home Tech's discovery requests are short and straightforward – its petition to cancel is premised on Respondent's non-use of the SUVI mark. Pursuant to 15 U.S.C. § 1051, a trademark registration is *void ab initio* if it did not meet the use in commerce requirement at the time a Statement of Use was filed. As such, Home Tech sought for documents sufficient to show

Respondent's first use of the SUVI mark in U.S. commerce in connection with each good or service allegedly offered by Respondent. Similarly, Home Tech sought documents sufficient to show, *inter alia*, the prices Respondent charges, the volume of its sales, and advertisements for its goods or services allegedly offered in connection with the SUVI mark. Despite Home Tech's straightforward discovery requests, Respondent apparently refuses to search for or produce any documents.

**2. Respondent Has Not Adequately Searched for Documents or Served Complete Interrogatory Responses**

"Each party served with a request for discovery has a duty to thoroughly search its records for all information properly sought in the request..." *Panda Travel Inc. v. Resort Option Enterprises, Inc.*, 94 USPQ2d 1789, 1791 (TTAB 2009), citing TBMP § 408.02. In doing so, the responding party must "take care to ensure that it works with, and searches for documents maintained by, the appropriate employees and/or custodians." *Frito-Lay North America Inc. v. Princeton Vanguard LLC*, 100 USPQ2d 1904, 1911 (TTAB 2011).

Respondent has failed to satisfy its duty to search for, collect, and produce documents responsive to Home Tech's discovery requests. In fact, Respondent has not agreed to produce any documents responsive to Home Tech's reasonable discovery requests. Likewise, Respondent's Interrogatory responses are equally deficient – most of the responses are written in incomplete sentences, much less complete interrogatory responses. (e.g., "in use as of the trademark application papers" or "likely this aspect is not relevant or applicable"). Therefore, Respondent has breached its duty to "thoroughly search" its records or provide complete interrogatory responses, and the Board should compel it to do so.

**C. The Board Should Suspend the Proceeding and Reset Deadlines Upon Disposition of This Motion.**

Pursuant to 37 CFR § 2.120(e)(2), "[w]hen a party files a motion for an order to compel...the case will be suspended by the Trademark Trial and Appeal Board with respect to



all matters not germane to the motion.” Further, the Board may extend deadlines upon a showing of good cause. *See* Fed. R. Civ. P. 6(b); TBMP § 509.01. “The Board is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused.” *National Football League v. DNH Management LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008).

As described above, Home Tech has made a good faith effort to obtain needed discovery from Respondent but has been unable to do so. Home Tech also made a good faith effort to meet and confer with Respondent regarding this dispute. Following the disposition of this motion, Home Tech will need adequate time to evaluate any discovery Respondent is compelled to produce, prepare to take Respondent’s deposition, and, if necessary, serve additional discovery requests. Thus, Respondent has shown good cause for an extension of all deadlines in this proceeding by sixty (60) days.

#### **IV. CONCLUSION**

For the foregoing reasons, Home Tech respectfully requests that the Board enter an order: (1) compelling Respondent to search for and produce responsive documents to each of the Subject RFPs; (2) compelling Respondent to serve complete responses to each of the Subject Interrogatories; and (3) extending all deadlines in this proceeding by sixty (60) days.

Date: October 25, 2016

COOLEY LLP

/Shane Rumbaugh/  
Shane Rumbaugh  
Peter J. Willsey  
Vincent J. Badolato  
COOLEY LLP  
1299 Pennsylvania Ave., NW, Ste. 700  
Washington, D.C. 20004  
Tel: (202) 842-7800

*Counsel for Petitioner Home Tech, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below a true and complete copy of the foregoing **MOTION TO COMPEL AND EXTEND DEADLINES**, along with true and complete copies of the Declaration of Shane Rumbaugh and Exhibits filed concurrently herewith, were served via first class mail on Respondent to the following address:

Sanjay Bhardwaj  
Law Offices of Sanjay Bhardwaj  
44663 Japala PI  
Fremont, California 94539  
[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)

Date: October 25, 2016

/Shane Rumbaugh /  
Shane Rumbaugh  
COOLEY LLP  
1299 Pennsylvania Ave., N.W., Suite 700  
Washington, D.C. 20004  
Tel: (202) 728-7107  
Emails: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)

*Counsel for Petitioner Home Tech, Inc.*

# EXHIBIT A

## Rumbaugh, Shane

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**From:** Rumbaugh, Shane  
**Sent:** Monday, July 25, 2016 1:37 PM  
**To:** bhardwajsa@cs.com  
**Subject:** RE: Petition to Cancel SUVI mark - Discovery Conference Summary

Mr. Bhardwaj –

We still have not received a response from you – please confirm your understanding before we head into discovery.

Best,  
Shane

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, July 19, 2016 3:49 PM  
**To:** [bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)  
**Subject:** Petition to Cancel SUVI mark - Discovery Conference Summary

Mr. Bhardwaj –

Pleasure speaking with you today. This e-mail is just to confirm we held our Discovery Conference as required by the Board. Specifically we discussed:

- the nature of our claims;
- discovery deadlines;
- initial disclosures;
- subjects of discovery;
- protective order;
- ESI protocol;
- limitations of discovery requests;
- services of documents; and
- settlement.

We agreed that no changes were necessary to the Board's deadlines which were set in its July 06, 2016 order. We further agreed to adopt the Board's standard Protective Order (a document with our signature will soon follow). We agreed to Board imposed limitations on discovery requests. We agreed that our privilege logs will exclude communications between litigation counsel and the respective parties and communications after the date of filing the Petition to Cancel (May 26, 2016). Finally, we agreed that e-mail service of documents will not be sufficient and that no modifications will be made to the standard process of service.

We discussed settlement at length and will correspond with our respective clients regarding the same.

Please confirm this communication accurately reflects your understanding of our agreements in this Discovery Conference.

Best regards,  
Shane

**Shane Rumbaugh**  
Admitted to practice in Virginia only  
Cooley LLP

1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
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# EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 4,890,276  
For the Trademark SUVI  
Registered on January 19, 2016

Home Tech Innovation, Inc.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92063790
v.	)	
	)	
IDT Consulting and Services, Inc.,	)	
	)	
Respondent.	)	
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**PETITIONER HOME TECH INNOVATION, INC.’S INITIAL DISCLOSURES**

Petitioner Home Tech Innovation, Inc. (“Home Tech”), through its undersigned counsel, hereby provides the following initial disclosures under Federal Rule of Civil Procedure 26(a)(1), 37 CFR § 2.120, and this Board’s May 26, 2016 Order. These initial disclosures are based on information reasonably available to Home Tech as of the date below. Fed. R. Civ. P. 26(a)(1). Home Tech reserves the right to supplement, alter, or amend these disclosures as discovery progresses and as further information becomes available through its ongoing investigation or discovery. Home Tech also reserves the right to further supplement, alter, or amend these initial disclosures at appropriate intervals as provided for in Federal Rule of Civil Procedure 26(e)(1). Supplemental disclosures will be made to the extent that they are not mooted by future discovery responses or have not otherwise been made known to IDT Consulting and Services, Inc. (“IDT Consulting”) (“Respondent”) during the discovery process or in writing.



By making these initial disclosures, Home Tech is not waiving its right to object to the production of such documents, or testimony of such witnesses, on any ground, including, without limitation: (1) on the basis of privilege or work product protection; (2) on the ground that the information sought is not relevant to the subject matter of Cancellation Proceeding No. 92063790 (the “Cancellation”) involving the SUVI mark set forth in United States Trademark Registration No. 4,890,276 (the “SUVI Mark”), and is not reasonably calculated to lead to the discovery of admissible evidence; and (3) on the ground that the information sought is not sufficiently relevant to justify the burden or expense of production. Further, Home Tech is not making a representation that it has identified every document, tangible thing, or witness that may possibly be relevant to this proceeding. These disclosures represent a good faith effort to identify information that Home Tech reasonably believes Federal Rule of Civil Procedure 26(a)(1) calls for.

**I. KNOWLEDGEABLE INDIVIDUALS (FED. R. CIV. P. 26(a)(1)(A)(i)).**

As required by Fed. R. Civ. P. 26(a), Home Tech hereby identifies the following persons who are likely to have discoverable information that Home Tech may use to support its claims. Home Tech is informed and believes there are potentially other persons who may possess discoverable information that Home Tech may use to support its claims. Discovery is continuing and Home Tech reserves the right to designate such persons as witnesses as such witnesses become known to Home Tech.

Individual/Entity	Subject(s) of Information
Anand Vijay President IDT Consulting and Services, Inc.	Adoption of the SUVI Mark; Respondent’s knowledge of the SUVIE Mark; the products and/or services offered, or to be offered, in connection with the SUVI Mark; manner and use, or planned use, of the SUVI Mark by Respondent and/or its customers, partners and licensees; marketing and/or advertising of products and/or services offered, or to be offered, in connection with the SUVI Mark;

Individual/Entity	Subject(s) of Information
	customers for the products and/or services offered, or to be offered, in connection with the SUVI Mark.
Robin Liss CEO Home Tech Innovation, Inc.  To be contacted through counsel for Petitioner, Cooley LLP	Harm suffered by Registration of SUVI Mark

## **II. RELEVANT NON-PRIVILEGED DOCUMENTS (FED. R. CIV. P. 26(a)(1)(A)(ii)).**

Subject to the qualifications set forth above, Home Tech discloses the following categories of documents, data compilations, and tangible things that are in its possession, custody, or control and that it may use to support its claims. The documents are located with Respondent or at the offices of Home Tech Innovation, Inc., 975 Memorial Drive, #410 Cambridge, Massachusetts 02138.

1. Copies of Home Tech's United States trademark filings and submissions to the United States Patent & Trademark Office ("USPTO"), publicly available, located with Petitioner, and/or located with Respondent;
2. Copies of Petitioner's United States trademark filings and submissions to the USPTO, publicly available, located with Petitioner, and/or located with Respondent;
3. Documents relating to the adoption, clearance, use and/or intended use of the SUVI Mark, located with Respondent;
4. Documents relating to the marketing, promotion, and advertising of the SUVI Mark, located with Respondent;
5. Documents relating to the rendering of services and sale of goods under the SUVI mark in the U.S., located with Respondent;
6. Documents relating to the consumers of Respondent's goods offered under the SUVI Mark, located with Respondent;
7. Documents identifying the organizational structure of Respondent including its officers and directors, located with Respondent;

8. Correspondence between Home Tech and Respondent relating to the claims asserted in this action, located with Petitioner and Respondent; and

To the extent that any of these documents are proprietary, trade secret, or confidential, Home Tech will make them available only after the entry of an appropriate protective order.

Home Tech notes that the initial disclosures required by Fed. R. Civ. P. 26(a)(1)(A)(iii) (relating to computation of damages) and Fed. R. Civ. P. 26(a)(1)(A)(iv) (relating to insurance agreements) are not applicable to this proceeding.

Respectfully submitted,

Date: August 4, 2016

By: /s/ Shane Rumbaugh  
Shane M. Rumbaugh, Esq.  
Brendan J. Hughes, Esq.  
Cooley LLP  
1299 Pennsylvania Ave., NW  
Suite 700  
Washington, DC 20004  
(202) 728-7107

*Counsel for Petitioner  
Home Tech Innovation, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **PETITIONER HOME TECH INNOVATION, INC.'S INITIAL DISCLOSURES** was served on Respondent, IDT Consulting and Services Inc., on the date set forth below by hand delivery and email to Registrant's counsel of record at the following address:

Sanjay Bhardwaj  
Law Offices of Sanjay Bhardwaj  
44663 Japala PI  
Fremont, California 94539  
[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)

Date: August 4, 2016

/Shane Rumbaugh/  
\_\_\_\_\_  
Shane Rumbaugh

# EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 4,890,276  
For the Trademark SUVI  
Registered on January 19, 2016

Home Tech Innovation, Inc.,	)	
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Petitioner,	)	
	)	Cancellation No. 92063790
v.	)	
	)	
IDT Consulting and Services, Inc.,	)	
	)	
Respondent.	)	
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**PETITIONER’S FIRST SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS AND THINGS TO RESPONDENT**

**PROPOUNDING PARTY:**        **PETITIONER HOME TECH INNOVATION, INC.**

**RESPONDING PARTY:**        **RESPONDENT IDT CONSULTING AND SERVICES, INC.**

**SET NUMBER:**                **ONE**

Pursuant to 37 C.F.R. § 2.120 and Federal Rule of Civil Procedure 34, Petitioner Home Tech Innovation, Inc. (“Home Tech”) hereby requests that Respondent IDT Consulting and Services, Inc. (“Respondent”) respond to this First Set of Requests for Production of Documents and Things (“Requests”) within thirty (30) days of service hereof and in accordance with the Definitions and Instructions set forth below.

**I.        DEFINITIONS**

Notwithstanding any definition below, each word, term, or phrase used in these Requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure. As used in these Requests, words in capital letters are defined as follows:

1. YOU, YOUR, or YOURS refer to Respondent and anyone acting on its behalf, including without limitation employees, partners, attorneys, accountants, licensees, and consultants, as well as any business entity owned or operated by Respondent that uses or will use the SUVI MARK, including any such business entity's officers, directors, corporate parent, subsidiaries, and affiliates.

2. DOCUMENT or DOCUMENTS shall have the broadest meaning ascribed to those terms by Federal Rule of Civil Procedure 34, and include electronically stored information and tangible things, whose discovery is permitted under Rule 34(a)(1), and writings as defined by Rule 1001(1) of the Federal Rules of Evidence. A draft or non-identical copy is a separate "document" within the meaning of this term.

3. COMMUNICATION is used in its broadest sense, and means any transmission of information from one PERSON or entity to another by any means, including without limitation written communications, telephone communications, in-person communications, email, instant messaging, and other electronic communications.

4. CONCERN or CONCERNING means constituting, relating to, reflecting, regarding, memorializing, identifying, embodying, referring to, pertaining to, commenting on, discussing, analyzing, considering, describing, containing, consisting of, connected to, indicating, evidencing, supporting, or refuting.

5. PERSON means any natural person, business, or other legal entity.

6. SUVI MARK refers to the mark reflected in U.S. Trademark Registration No. 4,890,276, issued on January 19, 2016.

7. SUVIE MARK refers to the mark reflected in U.S. Trademark Application Serial No. 86/766,860, filed on September 24, 2015.

8. CANCELLATION ACTION refers to Cancellation No. 92063790, filed by Home Tech on May 26, 2016.

9. YOUR ANSWER refers to the Answer you filed in the CANCELLATION ACTION on July 4, 2016.

## II. INSTRUCTIONS

1. YOU shall produce all non-privileged DOCUMENTS or tangible things in YOUR possession, custody, or control that are responsive to these Requests. If YOU object to part of a Request and refuse to respond to that part, YOU shall produce all DOCUMENTS called for which are not subject to that objection. If YOU object to the scope or time period of a Request, YOU shall state YOUR objection and produce all documents responsive to the Request that are not covered by YOUR objection.

2. If, in responding to these Requests, YOU encounter any ambiguities when construing a Request or Definition, YOU shall set forth in YOUR written response to the Request the matter deemed ambiguous and the construction used in responding.

3. Each DOCUMENT or tangible thing produced in response to these Requests shall be produced as it is kept in the usual course of business, including file folders, binders, notebooks, and other devices by which such papers or things may be organized or separated, or it shall be organized and labeled to correspond with the Requests to which it is responsive. All DOCUMENTS that are physically or electronically attached to each other shall be produced in that form and designated accordingly in an electronic production.

4. DOCUMENTS should be produced in a form pursuant to a production protocol to be agreed upon by the parties, in a form in which they are ordinarily maintained (*e.g.*, native form), or in a reasonably usable form (*e.g.*, TIFF images with Concordance-compatible load files).

5. If there are no DOCUMENTS or things responsive to any particular Request, YOU are requested to indicate the same in writing. If any responsive DOCUMENT is no longer in existence, cannot be located or is not in YOUR possession, custody, or control, identify it, describe its subject matter and describe its disposition, including without limitation identifying the PERSON having knowledge of the disposition.



6. These Requests are continuing so as to require prompt supplemental responses as required under Federal Rule of Civil Procedure 26(e) up to and including the time of trial of the CANCELLATION ACTION. If YOU come into possession, custody, or control of responsive DOCUMENTS or things after the initial production, YOU shall supplement the production by promptly producing such DOCUMENTS or things.

7. If YOU believe that any Request calls for the disclosure of privileged information, YOU must comply with the requirements of Federal Rule of Civil Procedure 26(b)(5) as to each DOCUMENT for which a claim of privilege or protection from discovery is made.

8. When a DOCUMENT contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible without disclosing the privileged material. If a privilege is asserted with regard to part of the material contained in a DOCUMENT, the party claiming the privilege must clearly indicate the portions as to which the privilege is claimed. When a DOCUMENT has been redacted or altered in any fashion, YOU shall identify as to each DOCUMENT the reason for the redaction or alteration, the date of the redaction or alteration, and the individual performing the redaction or alteration. Any redaction must be clearly visible on the redacted DOCUMENT.

9. Whenever used herein, the present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. “All” means “any and all”; “any” means “any and all.” “Including” means “including but not limited to.” “And” and “or” encompasses both “and” and “or.” Words in the masculine, feminine, or neutral form shall include each of the other genders.

### **III. REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION No. 1:**

DOCUMENTS sufficient to support all allegations made by YOU in YOUR ANSWER.

#### **REQUEST FOR PRODUCTION No. 2:**

All DOCUMENTS used, identified, relied upon, or referred to by YOU when answering

Home Tech's First Set of Interrogatories or any other discovery requests propounded by Home Tech.

**REQUEST FOR PRODUCTION No. 3:**

All DOCUMENTS CONCERNING the adoption of the SUVI MARK by YOU or third parties authorized by YOU, including, without limitation, all DOCUMENTS CONCERNING the creation, selection, and adoption of the SUVI MARK.

**REQUEST FOR PRODUCTION No. 4:**

For each month since 2015, DOCUMENTS sufficient to show each good or service that YOU have currently offer or have offered in connection with the SUVI MARK.

**REQUEST FOR PRODUCTION No. 5:**

DOCUMENTS sufficient to show YOUR first use of the SUVI MARK in U.S. commerce in connection with each product and service offered by YOU, including but not limited to, DOCUMENTS evidencing the date and location of each first use, and the identity of any consumers.

**REQUEST FOR PRODUCTION No. 6:**

DOCUMENTS sufficient to show the prices or fees YOU charged for each good or service that YOU currently offer or have offered in connection with the SUVI MARK.

**Request for Production No. 7:**

For each month that YOU have offered goods or services under the SUVI Mark, DOCUMENTS sufficient to show YOUR revenue, costs, and profits associated with each such good or service.

**Request for Production No. 8:**

For each month that YOU have offered goods or services under the SUVI Mark, DOCUMENTS sufficient to show the volume of sales for each such good or service.

**REQUEST FOR PRODUCTION No. 9:**

Exemplar copies of all advertising and promotional DOCUMENTS CONCERNING any good or service offered or sold, or intended to be offered or sold, to PERSONS in the United States in

connection with the SUVI MARK, including without limitation print, radio, television, and online advertising.

**REQUEST FOR PRODUCTION No. 10:**

DOCUMENTS sufficient to show any pitches or proposals to potential business partners, investors or financing sources CONCERNING any goods or services offered under the SUVI Mark.

Request for Production No. 11:

DOCUMENTS sufficient to show the identity of YOUR customers for any good sold or service rendered under the SUVI Mark for each month since the beginning of 2015.

**REQUEST FOR PRODUCTION No. 12:**

All DOCUMENTS and COMMUNICATIONS CONCERNING the use of the SUVI MARK by any third party.

Request for Production No. 13:

All DOCUMENTS CONCERNING the discontinuation of any goods or services currently or previously offered in connection with the SUVI Mark.

**REQUEST FOR PRODUCTION No. 14:**

All marketing plans, market surveys, forecasts, projections, and other DOCUMENTS CONCERNING YOUR marketing and sales plans associated with any good or service offered in the United States in connection with the SUVI MARK.

**REQUEST FOR PRODUCTION No. 15:**

DOCUMENTS sufficient to identify the channels of trade through which YOU offer or have offered products and services in connection with the SUVI MARK.

**REQUEST FOR PRODUCTION No. 16:**

DOCUMENTS sufficient to show the identities of any PERSONS whom YOU have retained or contracted with in connection with the marketing of any goods or services offered or sold in connection with SUVI MARK, including without limitation distributors, advertising and marketing agencies, and PERSONS involved in sales and business development.

**REQUEST FOR PRODUCTION No. 17:**

All DOCUMENTS and COMMUNICATIONS referring or relating to the creation of any websites owned or controlled by YOU that feature goods or services offered in connection with the SUVI Mark.

**REQUEST FOR PRODUCTION No. 18:**

All DOCUMENTS and COMMUNICATIONS referring or relating to the modification of any websites owned or controlled by YOU that feature goods or services offered in connection with the SUVI Mark.

**REQUEST FOR PRODUCTION No. 19:**

All DOCUMENTS and COMMUNICATIONS CONCERNING Home Tech.

**REQUEST FOR PRODUCTION No. 20:**

All DOCUMENTS and COMMUNICATIONS CONCERNING the CANCELLATION ACTION.

**REQUEST FOR PRODUCTION No. 21:**

DOCUMENTS sufficient to show any trademark YOU have considered using as an alternative to the SUVI MARK.

**REQUEST FOR PRODUCTION No. 22:**

All DOCUMENTS reflecting or referring to any business plan, forecast, or vision statement of YOUR company.

**REQUEST FOR PRODUCTION No. 23:**

DOCUMENTS sufficient to show the geographic territory in which YOU have at any time sold goods or rendered services under the SUVI MARK.

**REQUEST FOR PRODUCTION No. 24:**

DOCUMENTS sufficient to reflect when and how YOU first became aware of Home Tech.

**REQUEST FOR PRODUCTION No. 25:**

DOCUMENTS sufficient to show all trade shows, conferences, exhibitions or similar events YOU have attended in the past five years where the SUVI MARK was displayed.

**REQUEST FOR PRODUCTION No. 26:**

All DOCUMENTS YOU intend to rely on in this CANCELLATION ACTION.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENT** was served on Respondent, IDT Consulting and Services Inc., on the date set forth below by hand delivery and email to Respondent's counsel of record at the following address:

Sanjay Bhardwaj  
Law Offices of Sanjay Bhardwaj  
44663 Japala PI  
Fremont, California 94539  
[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)

Date: August 4, 2016

/Shane Rumbaugh/  
Shane Rumbaugh

---

# EXHIBIT D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 4,890,276  
For the Trademark SUVI  
Registered on January 19, 2016

Home Tech Innovation, Inc.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92063790
v.	)	
	)	
IDT Consulting and Services, Inc.,	)	
	)	
Respondent.	)	
<hr style="width: 45%; margin-left: 0;"/>		

**PETITIONER’S FIRST SET OF INTERROGATORIES  
TO RESPONDENT**

**PROPOUNDING PARTY:**        **PETITIONER HOME TECH INNOVATION, INC.**

**RESPONDING PARTY:**        **RESPONDENT IDT CONSULTING AND SERVICES, INC.**

**SET NUMBER:**                **ONE**

Pursuant to 37 C.F.R. § 2.120 and Federal Rule of Civil Procedure 33, Petitioner Home Tech Innovation, Inc. (“Home Tech”) hereby requests that Respondent IDT Consulting and Services, Inc. (“Respondent”) respond to this First Set of Interrogatories (“Interrogatories”) by answering each interrogatory separately and completely in writing under oath within thirty (30) days of service hereof and in accordance with the Definitions and Instructions set forth below.

**I.        DEFINITIONS**

Notwithstanding any Definition below, each word, term, or phrase used in these Interrogatories is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure. As used in these Interrogatories, words in capital letters are defined as follows.



1. YOU, YOUR, or YOURS refer to Respondent and anyone acting on its behalf, including without limitation employees, partners, attorneys, accountants, licensees, and consultants, as well as any business entity owned or operated by Respondent that uses or will use the SUVI MARK, including any such business entity's officers, directors, corporate parent, subsidiaries, and affiliates.

2. DOCUMENT or DOCUMENTS shall have the broadest meaning ascribed to those terms by Federal Rule of Civil Procedure 34, and include electronically stored information and tangible things, whose discovery is permitted under Rule 34(a)(1), and writings as defined by Rule 1001(1) of the Federal Rules of Evidence. A draft or non-identical copy is a separate "document" within the meaning of this term.

3. COMMUNICATION is used in its broadest sense, and means any transmission of information from one PERSON or entity to another by any means, including without limitation written communications, telephone communications, in-person communications, email, instant messaging, and other electronic communications.

4. CONCERN or CONCERNING means constituting, relating to, reflecting, regarding, memorializing, identifying, embodying, referring to, pertaining to, commenting on, discussing, analyzing, considering, describing, containing, consisting of, connected to, indicating, evidencing, supporting, or refuting.

5. PERSON means any natural person, business, or other legal entity.

6. SUVI MARK refers to the mark reflected in U.S. Trademark Registration No. 4,890,276, issued on January 19, 2016.

7. SUVIE MARK refers to the mark reflected in U.S. Trademark Application Serial No. 86/766,860, filed on September 24, 2015.

8. CANCELLATION ACTION refers to Cancellation No. 92063790, filed by Home Tech on May 26, 2016.

9. YOUR ANSWER refers to the Answer you filed in the CANCELLATION ACTION on July 4, 2016.

**10.** IDENTIFY means to describe with particularity in full detail all relevant facts about the subject matter, including but not limited to names, relationships, functions, addresses, telephone number(s), purposes, objectives, results, and any other information which is relevant or could lead to the discovery of admissible evidence.

(a) When used with respect to an individual, the term means to state the individual's (i) full name, (ii) title, (iii) employer or business affiliation, (iv) present address, or if unknown, last known address, and (v) telephone number.

(b) When used with respect to a corporation or other form of business organization, the term means to state (i) the name and form of such corporation or business organization, (ii) the address of its principal place of business, (iii) its state of incorporation or formation, and (iv) the identity of all individuals who acted on its behalf in connection with the matter alleged in the CANCELLATION ACTION.

(c) When used with respect to a DOCUMENT, the term means to state (i) the identity of the PERSONS (s) who authored the DOCUMENT, (ii) the identity of the sender(s) of the DOCUMENT, if any, (iii) its title or a description of the general nature of its subject matter, (iv) the identity of all actual or intended recipients, if any, (v) the date when the DOCUMENT was created and last modified, and (vi) the location of each copy of the DOCUMENT and the identity of the present custodian.

## **II. INSTRUCTIONS**

**1.** YOU are requested to answer each Interrogatory set forth below separately and completely in writing under oath. YOUR response hereto is to be signed and verified by the PERSON making it, and the objections signed by the attorney making them, as required by Federal Rule of Civil Procedure 33(b).

**2.** Each Interrogatory shall be answered fully unless it is objected to in good faith, in which event the reasons for YOUR objection shall be stated in detail. If an objection pertains to only a portion of an Interrogatory, or a word, phrase, or clause contained within it, YOU are required to state YOUR objection to that portion only and to respond to the remainder of the

Interrogatory, using YOUR best efforts to do so.

3. If YOU answer any of the Interrogatories by reference to records from which the answer may be derived or ascertained, YOU are required to comply with the requirements of Federal Rule of Civil Procedure 33 and Section 405.04(b) of the Trademark Trial and Appeal Board Manual of Procedure. YOU are requested to comply with the Instructions set forth in Home Tech's First Set of Requests for the Production of Documents and Things with respect to any such records produced.

4. If, in answering these Interrogatories, YOU encounter any ambiguities when construing an Interrogatory, Instruction, or Definition, YOU shall set forth in YOUR answer the matter deemed ambiguous and the construction used in answering.

5. If YOU believe that any information responsive to any Interrogatory is privileged or otherwise protected from discovery, YOU shall comply with the requirements of Federal Rule of Civil Procedure 26(b)(5) as to the information for which a claim of privilege or protection from discovery is made.

6. These Interrogatories are continuing in nature and YOUR responses to them are to be promptly supplemented or amended if, after the time of YOUR initial responses, YOU learn that any response is or has become in some material respect incomplete or incorrect, to the full extent provided for by Federal Rule of Civil Procedure 26(e).

7. Wherever used herein, the present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all." "Any" means "any and all." "Including" means "including but not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine, or neuter form shall include each of the other genders.

### **III. INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

IDENTIFY each PERSON who supplied information in response to these Interrogatories or

who was consulted or whose DOCUMENTS or files were consulted in connection with the preparation of responses to these Interrogatories.

**INTERROGATORY NO. 2:**

IDENTIFY each good or service YOU offer or have offered in connection with the SUVI MARK.

**INTERROGATORY NO. 3:**

IDENTIFY each good or service YOU were offering in connection with the SUVI MARK on or before August 14, 2015.

**INTERROGATORY NO. 4:**

For each good and service identified in response to Interrogatories Nos. 2 and 3, IDENTIFY the date(s) when YOU first used the SUVI MARK in U.S. commerce.

**INTERROGATORY NO. 5:**

Describe in detail the basis for each allegation and denial asserted in YOUR ANSWER.

**INTERROGATORY NO. 6:**

Describe the target market(s) for the goods and services identified in response to Interrogatory No. 2, including without limitation the type of consumer targeted, the demographic of the consumer targeted, and the geographic scope of the target market.

**INTERROGATORY NO. 7:**

IDENTIFY all channels of trade for the goods and services YOU offer or have offered in connection with the SUVI MARK.

**INTERROGATORY NO. 8:**

IDENTIFY the price of each good and service identified in response to Interrogatory No. 2.

**INTERROGATORY NO. 9:**

IDENTIFY any agreement, contract, or license YOU have entered into with any PERSON relating to the use of the SUVI MARK.

**INTERROGATORY NO. 10:**

IDENTIFY any good or service YOU have offered under the SUVI MARK, but is no longer

offered.

**INTERROGATORY NO. 11:**

IDENTIFY each customer of any good sold or service rendered by you in connection with the SUVIMARK on or before August 14, 2015.

**INTERROGATORY NO. 12:**

Describe in detail the volume of sales for each good or service offered in connection with the SUVIMARK for each month on or before August 14, 2015.

**INTERROGATORY NO. 13:**

IDENTIFY all PERSONS YOU communicated with CONCERNING the CANCELLATION ACTION.

**INTERROGATORY NO. 14:**

IDENTIFY each PERSON who provided input, instructions, or advice in connection with YOUR efforts to register the SUVIMARK with the United States Patent and Trademark Office.

**INTERROGATORY NO. 15:**

IDENTIFY all facts YOU intend to rely upon in support of YOUR claims or defenses in this CANCELLATION ACTION, including without limitations all facts YOU relied upon in support of YOUR ANSWER.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO RESPONDENT** was served on Respondent, IDT Consulting and Services Inc., on the date set forth below by hand delivery and email to Respondent's counsel of record at the following address:

Sanjay Bhardwaj  
Law Offices of Sanjay Bhardwaj  
44663 Japala PI  
Fremont, California 94539  
[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)

Date: August 4, 2016

/Shane Rumbaugh/  
\_\_\_\_\_  
Shane Rumbaugh

# EXHIBIT E

## Rumbaugh, Shane

---

**From:** Rumbaugh, Shane  
**Sent:** Saturday, September 03, 2016 6:01 PM  
**To:** Sanjay Bhardwaj  
**Subject:** RE: Home Tech - SUVIE Trademark Dispute

Mr. Bhardwaj --

This is very unusual. We contacted you in advance of your initial disclosures and discovery response deadline to discuss settlement. Instead of replying to our settlement offer (which we thought we were very close on finalizing) you notified us, for the very first time that you are no longer serving as counsel for IDT Consulting. You should have promptly notified us the moment you withdrew as counsel -- not on the eve of your discovery deadline.

You told us to reach out to your former client directly (which we promptly did) on Friday afternoon. Now, less than 24 hours later, you notify us that you "will work on case for now." What does that mean? Please answer: (1) are you currently representing IDT Consulting; and (2) do you intend on representing IDT Consulting for the duration of this dispute?

If you are representing IDT Consulting, please review the settlement agreement and let us know if IDT Consulting will sign on Tuesday. Otherwise, we will look forward to your discovery responses and initial disclosures on Tuesday.

We respectfully remind you that your responses must comply with all applicable federal laws including (among other things) your duty to conduct an investigation in answering our interrogatories and document requests. Your Answer to Home Tech's petition to cancel was grossly inadequate as it failed to address every paragraph and it evaded straightforward issues by packaging responses with qualifiers such as, "on information and belief." For example, paragraph 20 of the Answer states, "On information and belief, Respondent disputes that it has never used the SUVIE Mark on the design and development of kitchen products." IDT Consulting either has, or has not used the SUVIE Mark in connection with the design and development of kitchen products. The answer should have been a simple "deny" or "admit."

We hope that IDT Consulting complies with its obligations to answer our discovery requests, and does not provide more inadequate responses.

Best,  
Shane

### **Shane Rumbaugh**

Admitted to practice in Virginia only.  
Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
Direct: +1 202 728 7107 • Fax: +1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

----- Original message -----

From: Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)>  
Date: 9/3/16 4:47 PM (GMT-05:00)  
To: "Rumbaugh, Shane" <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)>



Subject: Re: Home Tech - SUVIE Trademark Dispute

Mr Rumbaugh, I will work on case for now. Please contact till further notice.  
Sanjay Bhardwaj, Esq

Sent from my iPhone

On Sep 2, 2016, at 4:17 PM, Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)> wrote:

Yes, please contact Vijay Anand directly.

[Avijay6@gmail.com](mailto:Avijay6@gmail.com)

Sent from my iPhone

On Sep 2, 2016, at 4:16 PM, Rumbaugh, Shane <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)> wrote:

Mr. Bhardwaj –

I want to be clear, you are no longer representing IDT Consulting and Services, Inc. in this trademark dispute? Further, it is your belief IDT Consulting is unrepresented?

Please confirm.

Shane

---

**From:** Sanjay Bhardwaj [<mailto:bhardwajsa@cs.com>]  
**Sent:** Friday, September 02, 2016 7:09 PM  
**To:** Rumbaugh, Shane  
**Subject:** Re: Home Tech - SUVIE Trademark Dispute

Mr Rumbaugh,

I am not representing IDT for now on this matter. Please contact Anand Vijay directly.

[Avijay6@gmail.com](mailto:Avijay6@gmail.com)

Sent from my iPhone

On Sep 2, 2016, at 3:57 PM, Rumbaugh, Shane <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)> wrote:

Sanjay –

Please find attached a revised settlement agreement regarding our trademark dispute. This communication is for settlement purposes only. The general proposition is that we enter into a joint motion to amend the description of IDT Consulting's goods (which means IDT Consulting will maintain its trademark registration for the SUVIE mark). Once the amendment has been accepted, Home Tech would agree to withdrawal its petition to cancel.

Please note, IDT Consulting's initial disclosures and responses to Home Tech's discovery requests are due Tuesday, September 6, 2016. If you think IDT Consulting is amendable to the attached settlement agreement, I am willing to extend this deadline (by a few days) to get the settlement finalized. Otherwise, we look forward to reviewing your responses on Tuesday.

Please review the agreement and advise me of your position.

Best,  
Shane

**Shane Rumbaugh**

Admitted to practice in Virginia only  
Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
Direct: + 1 202 728 7107 • Fax: + 1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

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This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. If you are the intended recipient, please be advised that the content of this message is subject to access, review and disclosure by the sender's Email System Administrator.

<Revised Settlement Agreement with IDT Consulting.docx>

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This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. If you are the intended recipient, please be advised that the content of this message is subject to access, review and disclosure by the sender's Email System Administrator.

# EXHIBIT F

## Rumbaugh, Shane

---

**From:** Sanjay Bhardwaj <bhardwajsa@cs.com>  
**Sent:** Wednesday, September 07, 2016 2:20 PM  
**To:** Rumbaugh, Shane  
**Subject:** Discovery responses.  
**Attachments:** joint\_response.pdf; ATT00001.htm

Mr Rumbaugh

Here are responses.

Sanjay Bhardwaj, Esq.

>



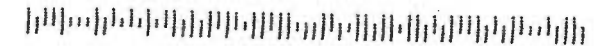
Law Offices of  
Sanjay Bhardwaj  
44663 Japala Pl  
Fremont CA 94539



Received  
SEP 13 2016  
Cooley, LLP

To Shane M Rumbaugh  
~~Cooley~~ Cooley LLP  
1299 Pennsylvania Ave NW #700  
Washington DC 20004

20004-244655



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

Home Tech innovation, Inc.,

Petitioner,

v.

IDT Consulting and Services, Inc.,

Respondent.

**CANCELLATION No.: 92063790**

**RESPONDENT'S RESPONSE TO  
INTERROGATORIES**

Date: 9.4.16

**RESPONDENT IDT Consulting Inc.'s Response to  
Interrogatories (SET ONE)**

Respondent IDT Consulting and Services Inc. ("IDT") hereby provides the following responses to interrogatories. These responses are based on information reasonably available to IDT as of the date of the disclosures. IDT reserves right to supplement, alter, or amend these responses as discovery progresses and as further information becomes available. IDT also reserves the right to further supplement, alter, or amend these responses at appropriate intervals. Supplemental responses will be made to the extent that they are not mooted by future discovery responses or have not otherwise been made known to Home Tech Innovation, Inc. (Home Tech) ("Petitioner") during the discovery process or in writing.

By making these disclosures, IDT is not waiving its right to object to the

production of such documents, or testimony of such witnesses, on any grounds, including, without limitation: (1) on the basis of privilege or work product protection; (2) on the ground that the information sought is not relevant to the subject matter of Cancellation Proceeding No. 92063790 (“Cancellation”) involving the SUVI mark set forth in the United States Trademark Registration No. 4,8902769 the “SUVI mark”), and is not reasonably calculated to lead to the discovery of admissible evidence; and (3) on the ground that the information sought is not sufficiently relevant to justify the burden or expense of production. Further, IDT is not making its representation that it has identified every document, tangible thing, or witness that may possibly be relevant to this proceeding. These responses represent a good faith effort to identify information that IDT reasonably believes requires.

1. Officers of IDT were consulted.
2. Identified as part of the trademark papers available publicly, as attached to answer and as available on the publicly accessible web site. The product suite is broad as one seed product is a solar power module, portable and useable in a variety of home and external appliances.
3. As above.
4. In use as of the trademark application papers.
5. See answer 2.
6. See answer 2.
7. All possible channels available for consumer goods sale and distribution.
8. Difficult to provide due to wide range of products and evolving technology and emerging markets. For home and external appliances, it is expected that the price will be competitive with alternate powered products in the same space.
9. Filed SUVI mark in China and Europe. Other agreements are in the pipe and in the process of being negotiated to finalized.
10. Likely this aspect is not relevant or applicable.

11. Customers will be numerous and unidentifiable as an entity due to consumer product space. Other large customers, if any are in the development.
12. Volume is emerging, prototyping and experiment use continues with testing deployments and for purposes of qualifications or standards compliance testing.
13. Home Tech and its personnel and advisors and counsel.
14. Officers of IDT were primary input provider.
15. See answer 2. Our trademark covers class 42 and class 11.

**CERTIFICATE OF  
SERVICE**

I hereby certify that a true and complete copy of the foregoing **RESPONDENT'S Response to Interrogatories** was served on Petitioner, Home Tech Innovations, Inc., at the following address by first class mail:

Shane M Rumbaugh  
Cooley LLP  
1299 Pennsylvania Ave NW Suite 700  
Washington DC 20004

Date: September 4, 2016

/Sanjay Bhardwaj/  
\_\_\_\_\_  
(Sanjay Bhardwaj )



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

Home Tech innovation, Inc.,  
Petitioner,

v.

IDT Consulting and Services, Inc.,  
Respondent.

**CANCELLATION No.: 92063790**

**RESPONDENT'S RESPONSE TO  
Request for Documents**

**Date: 9.4.16**

**RESPONDENT IDT Consulting Inc.'s Response to  
Request for Documents (SET ONE)**

Respondent IDT Consulting and Services Inc. ("IDT") hereby provides the following responses to Request for Documents (RFDs). These responses are based on information reasonably available to IDT as of the date of the disclosures. IDT reserves right to supplement, alter, or amend these responses as discovery progresses and as further information becomes available. IDT also reserves the right to further supplement, alter, or amend these responses at appropriate intervals. Supplemental responses will be made to the extent that they are not mooted by future discovery responses or have not otherwise been made known to Home Tech Innovation, Inc. (Home Tech) ("Petitioner") during the discovery process or in writing.

By making these disclosures, IDT is not waiving its right to object to the

production of such documents, or testimony of such witnesses, on any grounds, including, without limitation: (1) on the basis of privilege or work product protection; (2) on the ground that the information sought is not relevant to the subject matter of Cancellation Proceeding No. 92063790 (“Cancellation”) involving the SUVI mark set forth in the United States Trademark Registration No. 4,8902769 the “SUVI mark”), and is not reasonably calculated to lead to the discovery of admissible evidence; and (3) on the ground that the information sought is not sufficiently relevant to justify the burden or expense of production. Further, IDT is not making its representation that it has identified every document, tangible thing, or witness that may possibly be relevant to this proceeding. These responses represent a good faith effort to identify information that IDT reasonably believes requires.

1. Provided with answer, on file for trademark application and available on website. Website may be periodically updated for new products and business plans.
2. As above and USPTO class identifier tool.
3. Available on trademark application, with answer and at website.
4. Provided with answer, on trademark application and at website. Product suite is vast and evolves as the solar power module is amenable to integration with a number of in home and out of home appliances.
5. Same as 4.
6. Price and fees are still evolving as emerging technology is involved.

Tradeshow participation, customer engagement and gauging of customer interest is ongoing.

7. See above, response 6.
8. See above, response 6.
9. Submitted with application, with answer and available on website. Please check website periodically for updates.
10. See trademark application, attachments to answer and website.
11. See above, response 6.
12. See foreign registration documents attached to answer. See website, and trademark application.
13. See response 6. See trademark application, answer attachment and website.
14. See response 6.
15. All available channels nationally and internationally used for consumer and durable goods will be used. Specific partnerships are developing or in nascent stage.
16. See response 15.

**CERTIFICATE OF  
SERVICE**

I hereby certify that a true and complete copy of the foregoing **RESPONDENT'S Response to RFD** was served on Petitioner, Home Tech Innovations, Inc., at the following address by first class mail:

Shane M Rumbaugh  
Cooley LLP  
1299 Pennsylvania Ave NW Suite 700  
Washington DC 20004

Date: September 4, 2016

/Sanjay Bhardwaj/  
(Sanjay Bhardwaj )

# EXHIBIT G

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

Home Tech innovation, Inc.,  
Petitioner,

v.

IDT Consulting and Services, Inc.,  
Respondent.

**CANCELLATION No.: 92063790**

**RESPONDENT'S SUPPLEMENTAL  
RESPONSE TO Request for  
Documents**

**Date: 9.17.19**

**RESPONDENT IDT Consulting Inc.'s Response to  
Request for Documents (SET ONE)**

Respondent IDT Consulting and Services Inc. ("IDT") hereby provides the following supplemental responses to Request for Documents (RFDs). These responses are based on information reasonably available to IDT as of the date of the disclosures. IDT reserves right to supplement, alter, or amend these responses as discovery progresses and as further information becomes available. IDT also reserves the right to further supplement, alter, or amend these responses at appropriate intervals. Supplemental responses will be made to the extent that they are not mooted by future discovery responses or have not otherwise been made known to Home Tech Innovation, Inc. (Home Tech) ("Petitioner") during the discovery process or in writing.

By making these disclosures, IDT is not waiving its right to object to the production of such documents, or testimony of such witnesses, on any grounds, including, without limitation: (1) on the basis of privilege or work product protection; (2) on the ground that the information sought is not relevant to the subject matter of Cancellation Proceeding No. 92063790 (“Cancellation”) involving the SUVI mark set forth in the United States Trademark Registration No. 4,8902769 the “SUVI mark”), and is not reasonably calculated to lead to the discovery of admissible evidence; and (3) on the ground that the information sought is not sufficiently relevant to justify the burden or expense of production. Further, IDT is not making its representation that it has identified every document, tangible thing, or witness that may possibly be relevant to this proceeding. These responses represent a good faith effort to identify information that IDT reasonably believes requires.

17. Website creation and maintenance involves third parties along with company personnel. IDT may not solely authorized to release.

18. Same as above.

19. Being researched and sought from Home Tech.

20. Provided with answer, on trademark application and at website. Product suite is vast and evolves as the solar power module is amenable to integration with a number of in home and out of home appliances. Sought from Home Tech.

21. Same as 20.

22. Refer to website for disclosed information particularly as related to mark

SUVI.

23. Information derivable from location of company and its international presence. Markets more amenable where power infra structure is weak.
24. Trade mark application filing and contact by attorney. Documents available by requester. Application became searchable on USPTO which is the date.
25. See trademark application and documents. Part of conference and presentation submitted in the file. Most information publicly available on participants which requester can research on its own with reasonable diligence.
26. All documents sought from Home Tech very critical. Documents attached to answer, application.



**CERTIFICATE OF  
SERVICE**

I hereby certify that a true and complete copy of the foregoing **RESPONDENT'S Supplemental Response to RFD** was served on Petitioner, Home Tech Innovations, Inc., at the following address by first class mail:

Shane M Rumbaugh  
Cooley LLP  
1299 Pennsylvania Ave NW Suite 700  
Washington DC 20004

Date: September 17, 2016

/Sanjay Bhardwaj/  
(Sanjay Bhardwaj )

# EXHIBIT H



Shane M. Rumbaugh  
+1 202 728 7107  
srumbaugh@cooley.com

VIA E-MAIL & FIRST CLASS MAIL

September 12, 2016

Sanjay Bhardwaj  
Counsel for IDT Consulting & Services, Inc.  
44663 Japala Pl  
Fremont, California 94539

**Re: IDT Consulting Discovery Deficiencies**

Dear Mr. Bhardwaj:

After receiving IDT Consulting's untimely responses to Home Tech's Requests for Production ("RFPs") and Interrogatories, it is clear that IDT Consulting has failed to satisfy its discovery obligations. Please let us know when you are available to meet & confer next week regarding the issues set forth in this letter.

**I. Service of IDT Consulting's Responses & Initial Disclosures**

Pursuant to the Board's order, we held our meet & confer on July 19, 2016. We immediately drafted an e-mail to you that memorialized our discovery agreements. You failed to respond. We followed up with you on July 25, 2016 to confirm your understanding. Again, you failed to respond. See Attachment A. During the meet & confer, you insisted (against our recommendation) on refraining from electronic service of documents. See Attachment A ("Finally, we agreed that e-mail service of documents will not be sufficient and that no modifications will be made to the standard process of service"). As a result, we served you via hand-delivery our initial disclosures and First Set of RFPs and Interrogatories on August 4, 2016.

Your deadline for serving initial disclosures and responding to our discovery requests was September 4, 2016. As of the date of this letter, we have not received a copy that comports with the manner of service outlined in TBMP § 113.04. Although we received an electronic copy of both, per your instructions, your service is insufficient because it was not sent via first class mail. Please correct this deficiency by either (a) mailing a true and correct copy of your initial disclosures and discovery responses; or (b) agreeing to accept electronic service of documents.

Moreover, we did not receive an electronic copy of your discovery responses until September 7, 2016. You erroneously certified that service was effectuated on September 4, 2016 via first class mail. As you know, this statement is not true. On September 7, 2016 you represented to us that your discovery responses were not yet finished and would be sent "ASAP as review completed." See Attachment B. Since the documents were incomplete as of September 7, 2016, it was obviously not possible to effectuate service on September 4, 2016. You clearly back-dated the documents to make your responses appear timely. Please refrain from doing this again in the future.

**II. IDT Consulting's Responses to Home Tech's Interrogatories**

Pursuant to Federal Rule of Civil Procedure 33(b)(3), you must answer each interrogatory "separately and fully in writing under oath." You also have a duty to search your records for all information properly sought by an interrogatory. TBMP § 408.02. Similar to RFPs, interrogatories require a signed, written



Sanjay Bhardwaj  
September 12, 2016  
Page Two

response. "[I]t is incumbent upon a party who has been served with interrogatories to respond by articulating his objections (with particularity) to those interrogatories which he believes to be objectionable, and by providing the information sought in those interrogatories which he believes to be proper." *Amazon Tech. Inc. v. Wax*, 93 USPQ2d 1702, 1705 (TTAB 2009). In addition, Federal Rule of Civil Procedure 33 requires a party to certify its responses under oath. Fed. R. Civ. P. 33(b)(3). Moreover, responses to interrogatories must be served within thirty days of the date of service, unless otherwise stipulated by the parties. 37 CFR § 2.120(a)(3).

Each of your Interrogatory responses is grossly inadequate. You failed to provide a verification page or otherwise certify that the responses were made under oath. Moreover, your responses do not "separately and fully" respond to each Interrogatory and it is clear you failed to search your records for all information properly sought by these Interrogatories. Specifically:

- **ROG No. 1** – We asked you to identify each person who supplied information in response to Home Tech's Interrogatories; you simply replied "Officers of IDT were consulted." We asked you "to state the individual's (i) full name, (ii) title, (iii) employer or business affiliation, (iv) present address, or if unknown, last known address, and (v) telephone number." Your use of the word "officers" fails to *identify* specifically the full name, title, address, and phone number of those individuals. Please provide this information.
- **ROG No. 2** – This discovery request was very straightforward – we asked you to identify each good or service you offer or have offered in connection with the SUVI Mark. You responded that "the product suite is broad as one seed product is a solar power module, portable and useable in a variety of home and external appliances." You failed to fully respond to the Interrogatory. Please identify specifically each good or service you offer in connection with the SUVI Mark.
- **ROG No. 3** – Similarly, we simply asked you to identify the goods or services you offered under the SUVI Mark before August 14, 2015. You provided the same response as ROG No. 2. Your answer is incoherent and non-responsive. Please identify specifically the goods or services IDT Consulting offered under the SUVI Mark before August 14, 2015.
- **ROG No. 4** – Again, Home Tech plainly asked you to provide the first use dates for each good or service offered in connection with the SUVI Mark. You responded "In use as of the trademark application papers." Please identify specifically, each first use date for each good or service.
- **ROG No. 5** – Your response to this Interrogatory is nonsensical. Please identify the basis for each allegation and denial asserted in your Answer.
- **ROG No. 6** – We asked you to describe your target consumer and your response was again incoherent. You responded that "identified as part of the trademark papers available publicly, as attached to answer and as available on the publicly accessible web site. The product suite is broad as one seed product is a solar power module, portable and useable in a variety of home and external appliances." Please respond to this Interrogatory.
- **ROG No. 7** – Please identify what you mean by "all possible channels available" and specifically identify each such channel of trade.





Sanjay Bhardwaj  
September 12, 2016  
Page Three

- **ROG No. 8** – We simply asked you to provide us with the prices you charge for goods and services offered under the SUVI Mark. You failed to identify a single product or a single price charged. You stated “it is expected that the price will be competitive with alternate powered products in the same space.” Please clarify what this means and respond to this Interrogatory.
- **ROG No. 9** – We asked you to identify any contracts or licenses IDT Consulting entered into regarding the SUVI Mark; you responded that “other agreements are in the pipe and in the process of being negotiated to finalized.” As the Interrogatory requested, please identify those agreements.
- **ROG No. 10** – It is unclear whether you are objecting to this Interrogatory, regardless, your objection is not a valid reason for withholding a response. Please identify any good or service you have offered under the SUVI Mark, but is no longer offered.
- **ROG No. 11** – We asked you to identify each customer of any good or service rendered by you in connection with the SUVI Mark prior to August 14, 2015; you responded that “Customers will be numerous . . .” Please confirm that IDT Consulting had no customers prior to August 14, 2015.
- **ROG No. 12** – We asked you to identify the volume of sales for each good or service offered in connection with the SUVI Mark for each month on or before August 14, 2015; you responded that “Volume is emerging . . .” Please confirm that IDT Consulting had no volume or sales prior to August 14, 2015.
- **ROG No. 13** -- We asked you to identify each person IDT Consulting communicated with concerning this cancellation action; you simply replied “personnel and advisors and counsel.” We asked you “to state the individual’s (i) full name, (ii) title, (iii) employer or business affiliation, (iv) present address, or if unknown, last known address, and (v) telephone number.” Your use of the word “officers” fails to *identify* specifically the full name, title, address, and phone number of those individuals. Please provide this information.
- **ROG No. 14** -- We asked you to identify each person who provided input or instructions in connection with IDT Consulting’s efforts to register the SUVI Mark; you simply replied “Officers of IDT were primary input provider.” We asked you “to state the individual’s (i) full name, (ii) title, (iii) employer or business affiliation, (iv) present address, or if unknown, last known address, and (v) telephone number.” Your use of the word “officers” fails to *identify* specifically the full name, title, address, and phone number of those individuals. Please provide this information.

As outlined above, each of your responses is either absent or grossly inadequate. Please confirm that you will cure the identified discovery deficiencies by producing documents responsive to Home Tech’s Interrogatories by **Monday, September 19, 2016**.

### **III. IDT Consulting’s Responses to Home Tech’s RFPs**

A party responding to a discovery request must “thoroughly search its records for all information properly sought in the request” and make a “good faith effort to satisfy” its adversary’s discovery needs. TBMP § 408.02; *Panda Travel Inc., v Resort Option Enterprises, Inc.*, 94 USPQ2d 1789, 1791 (TTAB 2009); see also Fed. R. Civ. Pro. 34(b). For each item or category of documents requested, you must state that you will produce the requested documents or that you object to the request, along with the reasons for such objection. Fed. R. Civ. P. 34(b)(2)(B)-(C); TBMP § 406.04(c). It is improper to assert that requested



Sanjay Bhardwaj  
September 12, 2016  
Page Four

documents do not exist unless you have first performed a reasonable search and such assertion is truthful. See Fed. R. Civ. P. 26(g)(1) and 34; TBMP § 408.02.

Your responses to Home Tech's RFPs are unintelligible and fail to identify or provide any responsive documents. Moreover, you did not even attempt to respond to RFPs Nos. 17-26. The responses that you did provide are not credible and clearly indicate that you have made no effort (let alone a good faith effort) to locate and produce responsive documents. In our meet & confer next week, please be prepared to specifically identify all steps you took in searching for responsive documents.

Many of your discovery responses are unintelligible because you did draft complete sentences. Each response provided by you is incomplete and woefully inadequate. Specifically:

- **RFP No.1** – The handful of pages you attached to the Answer are not sufficient to support all allegations made by you in the Answer. For example, the exhibits to the Answer do not demonstrate use of the SUVI Mark in commerce for all of the goods identified in your trademark registration. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 3** – You state that documents responsive to this request are located at your website. First, that is inaccurate. Second, even if your website had some responsive documents, you are obligated to produce *all* responsive documents in your possession, custody, or control. This includes, drafts and non-final versions of documents, as well as e-mail correspondence relating to the relevant subject matter. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege. Please provide all documents concerning the creation, selection, and adoption of the SUVI Mark.
- **RFP No. 4** – The handful of documents attached to your Answer do not adequately respond to this request because (a) none of the products you identify are branded with the SUVI Mark; (b) the document attached your Answer clearly states “many more” products are available; and (c) the document does not demonstrate goods or services offered by you for each month since 2015. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No 5.** – You have provided no documents sufficient to show your first use date of each product offered by you under the SUVI Mark. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 6** – We asked for documents sufficient to show the prices you charge for goods offered under the SUVI Mark. You responded that “Price and fees are still evolving as emerging technology is involved.” This answer is entirely unresponsive and fails to identify any documents responsive to the request or provide an affirmative statement by you that such documents will be produced. Please provide us with documents sufficient to show the prices or fees IDT Consulting charged for each good or service currently offered in connection with the SUVI Mark.
- **RFP Nos. 7-8** – Similarly, we requested relevant information concerning your revenue, costs, profits, and volume of sales for each month since you started offering goods and services under





Sanjay Bhardwaj  
September 12, 2016  
Page Five

the SUVI Mark. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.

- **RFP No. 9** – Instead of responding to this RFP you asked us to “please check website periodically for updates.” Again, your response to this RFP is grossly inadequate. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege. Please provide exemplar copies of all advertising and promotional material for each good or service offered by you under the SUVI Mark.
- **RFP No. 10.** – We asked for pitches or proposals to potential business partners, investors, or financing sources concerning any goods or services offered under the SUVI Mark. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 11** – We asked for documents sufficient to identify any customers for any good or service rendered under the SUVI Mark for each month since 2015. You responded that “Price and fees are still evolving as emerging technology is involved. Tradeshow participation, customer engagement and gauging of customer interest is ongoing.” You made no attempt to respond to this discovery request. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 12** – We asked for documents concerning use of the SUVI mark by third parties – you responded that “See foreign registration documents attached to answer.” Again, this is completely nonresponsive. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 13** – We asked for documents concerning the discontinuation of any goods or services offered under the SUVI Mark; you asked us to see the trademark application. This response is incoherent. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 14** – We asked you for marketing plans, market surveys, projections, and sales plans associated with any good or service offered in connection with the SUVI Mark. You responded that “Price and fees are still evolving as emerging technology is involved. Tradeshow participation, customer engagement and gauging of customer interest is ongoing.” This response is incoherent. You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 15** – We asked for documents sufficient to identify channels of trade through which you offer goods and services under the SUVI Mark. While your response that “all available channels nationally and internationally used for consumer and durable goods will be used” is appreciated, you failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.
- **RFP No. 16** – We asked for documents sufficient to show the identities of any person you retained to market goods or services in connection with the SUVI Mark; you responded for us to



Sanjay Bhardwaj  
September 12, 2016  
Page Six

"see response 15." You failed to provide any responsive documents, indicate whether responsive documents exists, or state whether documents are being withheld on the basis of privilege.

- **RFP Nos. 17-26** – You failed to provide a response to these RFPs – please provide responses before our meet & confer next week.

As outlined above, each of your responses is either absent or grossly inadequate. Please confirm that you will cure the identified discovery deficiencies by producing documents responsive to Home Tech's RFPs by **Monday, September 19, 2016**.

\* \* \*

Please let us know when you are available next week to meet & confer regarding the various discovery deficiencies addressed in this letter. We look forward to speaking with you soon.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shane Rumbaugh", with a long horizontal flourish extending to the right.

Shane M. Rumbaugh

cc: Peter J. Willsey, Esq.  
Vincent J. Badolato, Esq.

136614731



# ATTACHMENT A

## Rumbaugh, Shane

---

**From:** Rumbaugh, Shane  
**Sent:** Monday, July 25, 2016 1:37 PM  
**To:** bhardwajsa@cs.com  
**Subject:** RE: Petition to Cancel SUVI mark - Discovery Conference Summary

Mr. Bhardwaj –

We still have not received a response from you – please confirm your understanding before we head into discovery.

Best,  
Shane

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, July 19, 2016 3:49 PM  
**To:** [bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)  
**Subject:** Petition to Cancel SUVI mark - Discovery Conference Summary

Mr. Bhardwaj –

Pleasure speaking with you today. This e-mail is just to confirm we held our Discovery Conference as required by the Board. Specifically we discussed:

- the nature of our claims;
- discovery deadlines;
- initial disclosures;
- subjects of discovery;
- protective order;
- ESI protocol;
- limitations of discovery requests;
- services of documents; and
- settlement.

We agreed that no changes were necessary to the Board's deadlines which were set in its July 06, 2016 order. We further agreed to adopt the Board's standard Protective Order (a document with our signature will soon follow). We agreed to Board imposed limitations on discovery requests. We agreed that our privilege logs will exclude communications between litigation counsel and the respective parties and communications after the date of filing the Petition to Cancel (May 26, 2016). Finally, we agreed that e-mail service of documents will not be sufficient and that no modifications will be made to the standard process of service.

We discussed settlement at length and will correspond with our respective clients regarding the same.

Please confirm this communication accurately reflects your understanding of our agreements in this Discovery Conference.

Best regards,  
Shane

**Shane Rumbaugh**  
Admitted to practice in Virginia only  
Cooley LLP

1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
Direct: + 1 202 728 7107 • Fax: + 1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

# **ATTACHMENT B**

## Rumbaugh, Shane

---

**From:** Sanjay Bhardwaj <bhardwajsa@cs.com>  
**Sent:** Wednesday, September 07, 2016 11:07 AM  
**To:** Rumbaugh, Shane

Mr Rumbaugh

They are prepared and in review.  
I will send ASAP as review completed.

Sanjay Bhardwaj, Esq.

Sent from my iPhone

# EXHIBIT I

## Rumbaugh, Shane

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, September 13, 2016 9:53 PM  
**To:** Sanjay Bhardwaj  
**Cc:** Badolato, Vinny  
**Subject:** RE: SUVI -- IDT Consulting Discovery Deficiencies

Are you going to give us dates for a meet & confer?

Are you going to give us an answer for when you served responses?

Shane

### **Shane Rumbaugh**

Admitted to practice in Virginia only.  
Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
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Washington, DC 20004-2400  
Direct: +1 202 728 7107 • Fax: +1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

From: Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)>  
Date: 9/13/16 9:20 PM (GMT-05:00)  
To: "Rumbaugh, Shane" <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)>  
Subject: Re: SUVI -- IDT Consulting Discovery Deficiencies

Please send proof of hand delivery, no documents were served.  
You were trying to elicit response by saying you received no first class mail.

Please confirm you received first class mail our responses.

Technically your discovery request is no receipt as you did not serve properly.  
We extended courtesy by responding on electronic.

----- Original message -----

From: "Rumbaugh, Shane" <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)>  
Date: 9/13/16 5:17 PM (GMT-05:00)  
To: Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)>  
Cc: "Badolato, Vinny" <[vbadolato@cooley.com](mailto:vbadolato@cooley.com)>  
Subject: RE: SUVI -- IDT Consulting Discovery Deficiencies

Mr. Bhardwaj –

This our fourth request for a meet & confer please respond when you are available. If you do not respond, we will interpret your silence as a refusal to meet & confer regarding IDT Consulting's discovery deficiencies.

Your response is required – not a courtesy. Please review the applicable law. See 37 C.F.R. 2.119. We effectuated service by hand-delivery on August 4, 2016; we have proof of receipt that it was delivered to you. There is no additional 5-day rule for documents served via hand-delivery. Again, please confirm you did not mail your responses to Home Tech's First Set of Interrogatories and Request for Production of Documents on September 4, 2016.

Additionally, we do not understand what you mean by "You stated non receipt to elicit." We also do not understand what you mean by, "Why I should send email your way ?" Please clarify your sentences for us.

Shane

**Shane Rumbaugh**

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Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

---

**From:** Sanjay Bhardwaj [mailto:bhardwajsa@cs.com]  
**Sent:** Tuesday, September 13, 2016 4:37 PM  
**To:** Rumbaugh, Shane  
**Subject:** Messages

Mr Rumbaugh

Why I should send email your way ?  
You stated non receipt to elicit  
There is failure of service on your part send first class mail we responded as courtesy .  
Remember 5 day add rule on timeliness

Sanjay Bhardwaj, Esq.

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, September 13, 2016 3:53 PM  
**To:** 'Sanjay Bhardwaj'  
**Cc:** Badolato, Vinny  
**Subject:** RE: SUVI -- IDT Consulting Discovery Deficiencies

Mr. Bhardwaj –

When you reply to this e-mail, please "reply all" and in this thread. Again, I have copied your correspondence below.

As you know, the date you assign to your certificate of service is important. Your representations are made under oath, pursuant to your ethical obligations as member of your State Bar, and the Board will rely on your representations to calculate discovery deadlines.



As outlined in our September 12, 2016 discovery deficiency letter, we wanted to give you an opportunity to correct your certificate of service. You represented to us that your discovery responses were not complete on the morning of September 7, 2016. Thus, you could not have mailed those responses on September 4, 2016.

Since we pointed out this inconsistency, you have changed your story multiple times. First you said, September 4, then you said September 7, now it appears you are sticking with September 4.

This is a straightforward issue. Please confirm you did not mail your responses to Home Tech's First Set of Interrogatories and Request for Production of Documents on September 4, 2016.

Additionally, this is our third request to meet & confer regarding your discovery deficiencies. Again, please provide us with a date & time.

Shane

**Shane Rumbaugh**

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Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
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Direct: +1 202 728 7107 • Fax: +1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

---

**From:** Sanjay Bhardwaj [<mailto:bhardwajsa@cs.com>]  
**Sent:** Tuesday, September 13, 2016 2:06 PM  
**To:** Rumbaugh, Shane  
**Subject:** Re: SUVI -- IDT Consulting Discovery Deficiencies

Why is it important for the case ?  
Please do not concatenate emails when not from me.

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, September 13, 2016 1:59 PM  
**To:** 'Sanjay Bhardwaj'  
**Cc:** Badolato, Vinny  
**Subject:** RE: SUVI -- IDT Consulting Discovery Deficiencies

Mr. Bhardwaj –

Your certificate of service indicates you mailed your responses to Home Tech's First Set of Interrogatories and Request for Production of Documents on September 4, 2016. Is that the correct date, yes or no?

Please respond to this e-mail chain. Your separate e-mail threads are difficult to keep in order – I've copied your e-mails below.

Shane

**Shane Rumbaugh**

Admitted to practice in Virginia only  
Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
Direct: +1 202 728 7107 • Fax: +1 202 842 7899

---

---

**From:** Sanjay Bhardwaj [<mailto:bhardwajsa@cs.com>]  
**Sent:** Tuesday, September 13, 2016 1:41 PM  
**To:** Rumbaugh, Shane  
**Subject:** Re: SUVI -- IDT Consulting Discovery Deficiencies

I am sending single threads email. Please do not concatenate on your own.

---

**From:** Sanjay Bhardwaj [<mailto:bhardwajsa@cs.com>]  
**Sent:** Tuesday, September 13, 2016 1:40 PM  
**To:** Rumbaugh, Shane  
**Subject:** Re: SUVI -- IDT Consulting Discovery Deficiencies

Former. Placed in mailbox, stamped to your address.  
Labor Day weekend.

---

**From:** Rumbaugh, Shane  
**Sent:** Tuesday, September 13, 2016 9:30 AM  
**To:** Sanjay Bhardwaj  
**Cc:** Badolato, Vinny  
**Subject:** RE: SUVI -- IDT Consulting Discovery Deficiencies

Mr. Bhardwaj –

You provided us with two different dates. In your certificate of service, you indicate discovery responses were mailed on September 4, 2016. In the e-mail below, you indicate that discovery responses were mailed on September 7, 2016 (the date you drafted the e-mail). Which one is it?

Shane

---

**Shane Rumbaugh**

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1299 Pennsylvania Avenue, NW • Suite 700  
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Washington, DC 20004-2400  
Direct: +1 202 728 7107 • Fax: +1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

---

**From:** Sanjay Bhardwaj [<mailto:bhardwajsa@cs.com>]  
**Sent:** Monday, September 12, 2016 11:19 PM  
**To:** Rumbaugh, Shane  
**Subject:** Re: SUVI -- IDT Consulting Discovery Deficiencies

Same as stated.  
Acknowledge when you receive.

---

**From:** Rumbaugh, Shane  
**Sent:** Monday, September 12, 2016 9:16 PM  
**To:** Sanjay Bhardwaj  
**Cc:** Badolato, Vinny  
**Subject:** RE: SUVI -- IDT Consulting Discovery Deficiencies

Mr. Bhardwaj --

What date are you representing, under penalty of perjury, that you mailed discovery responses?

Also, please respond when you are available to meet & confer.

Shane

**Shane Rumbaugh**  
Admitted to practice in Virginia only.  
Cooley LLP  
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(enter from 12th and E Streets)  
Washington, DC 20004-2400  
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Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

----- Original message -----

From: Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)>  
Date: 9/12/16 8:54 PM (GMT-05:00)  
To: "Rumbaugh, Shane" <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)>  
Subject: Re: SUVI -- IDT Consulting Discovery Deficiencies

Mr Rumbaugh,  
We sent responses by first class mail one week ago.

Same day electronic sent to you.  
Check your mail

# EXHIBIT J

## Rumbaugh, Shane

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**From:** Rumbaugh, Shane  
**Sent:** Saturday, September 17, 2016 10:18 AM  
**To:** Sanjay Bhardwaj  
**Subject:** RE: Supplemental RFD response

Mr. Bhardwaj -

Will you supplement the responses addressed in our discovery deficiency letter or have you reached an impasse.

Shane

### **Shane Rumbaugh**

Admitted to practice in Virginia only.  
Cooley LLP  
1299 Pennsylvania Avenue, NW • Suite 700  
(enter from 12th and E Streets)  
Washington, DC 20004-2400  
Direct: +1 202 728 7107 • Fax: +1 202 842 7899  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com) • [www.cooley.com](http://www.cooley.com)

----- Original message -----

From: Sanjay Bhardwaj <[bhardwajsa@cs.com](mailto:bhardwajsa@cs.com)>  
Date: 9/17/16 9:55 AM (GMT-05:00)  
To: "Rumbaugh, Shane" <[srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)>  
Subject: Supplemental RFD response

Mr Rumbaugh:

Find supplemental discovery response.  
Sending it by First Class mail as well.  
Sanjay Bhardwaj, Esq.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 4,890,276  
For the Trademark SUVI  
Registered on January 19, 2016

Home Tech Innovation, Inc.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92063790
v.	)	
	)	
IDT Consulting and Services, Inc.,	)	
	)	
Respondent.	)	
<hr/>		

**DECLARATION OF SHANE RUMBAUGH IN SUPPORT OF HOME TECH’S MOTION TO COMPEL  
DISCOVERY AND EXTEND DEADLINES**

I, Shane Rumbaugh, declare:

1. I am an associate with the law firm Cooley LLP, counsel for Petitioner Home Tech Innovation, Inc. (“Home Tech”). I represent Home Tech in connection with the above-captioned action. I submit this declaration in support of Home Tech’s Motion to Compel Discovery and Extend Deadlines. I make this declaration upon personal knowledge and, if called and sworn as a witness, I could and would testify as to the matters set forth herein.

2. On July 19, 2016, I participated in the required discovery conference with Mr. Sanjay Bhardwaj, counsel for IDT Consulting and Services, Inc. (“IDT Consulting”). After the conference, I sent an email communication that memorialized our discovery agreements. IDT Consulting did not respond to my e-mail. I sent a second e-mail on July 25, 2016, and again, did not receive a response.

3. In July and August 2016 the parties were engaged in settlement negotiations. On September 2, 2016, Home Tech sent Respondent a revised settlement agreement that it believed

accurately captured the parties' settlement negotiations and would resolve the above-captioned dispute.

4. Mr. Bhardwaj informed me on September 2, 2016, for the first time that it was no longer serving as counsel for IDT Consulting. On the following day, Mr. Bhardwaj notified me via email that he would "work on [the] case for now."

5. On September 12, 2016, I sent Respondent a discovery deficiency letter via email and first-class mail.

6. Exhibits A – J attached to Home Tech's Motion to Compel are true and correct copies.

7. To date, Respondent has not agreed to meet and confer regarding its discovery deficiencies.

I declare under penalty of perjury that the foregoing statements are true and correct.  
Executed in Washington, D.C. this 25<sup>th</sup> day of October 2016.

/Shane Rumbaugh/  
Shane Rumbaugh  
COOLEY LLP  
1299 Pennsylvania Ave., NW, Ste. 700  
Washington, D.C. 20004  
Tel: (202) 842-7800  
Email: [srumbaugh@cooley.com](mailto:srumbaugh@cooley.com)